



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/635,431 08/10/00 HOSHIDA

T 1460.1007

021171  
STAAS & HALSEY LLP  
700 11TH STREET, NW  
SUITE 500  
WASHINGTON DC 20001

PM82/0921

EXAMINER

CUNNINGHAM, S

ART UNIT

PAPER NUMBER

3662  
DATE MAILED:

4  
09/21/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Application No.

09/635,431

Applicant(s)

HOSHIDA ET AL.

Examiner

Stephen C Cunningham

Art Unit

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 48. Correction is required.

### ***Specification***

2. The disclosure is objected to because of the following informalities: fiber grating filter abbreviated as EBG, EDFA 34B, and optical senders 20-1 to 20-t. Appropriate correction is required.

In the specification, page 42 line 11 EBG is given as the abbreviation for fiber grating filter. This is not consistent throughout the specification and the drawings use the abbreviation FGB.

Reference is made on page 54 line 8 to EDFA 34B; this should be GS-EDFA 34B.

Page 51 line 3 refers to optical senders 20-1 to 20-t in figure 12. This should read optical senders 80-1 to 80-t.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 34 rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable

Art Unit: 3662

one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Page 77 line 32 refers to "outputting a detect said ion result." The specification does not refer to "said ion." The examiner believes this to be a typo and should be corrected.

***Claim Rejections - 35 USC § 102***

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1, 3, 5, 14, and 15 are rejected under 35 U.S.C. 102(a) as anticipated by Berger or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sun in view of Berger.

With respect to claim 1, Berger teaches an optical amplifying apparatus comprising:

A plurality of optical adjusting means for adjusting optical powers of light beams;

wavelength-multiplexing means for multiplexing light beams prior to adjustment, the light beams remain multiplexed throughout the adjusting process and are output as multiplexed beams; and

controlling means for performing control so that an output of optical adjusting means for adjusting optical power of shorter-wavelength-band light becomes larger than an output of adjusting means for adjusting optical power of longer-wavelength-band light.

In the alternative case Sun fails to teach controlling means for performing control so that an output of optical adjusting means for adjusting optical power of

shorter-wavelength-band light becomes larger than an output of adjusting means for adjusting optical power of longer-wavelength-band light. Berger teaches controlling means for performing control so that an output of optical adjusting means for adjusting optical power of shorter-wavelength-band light becomes larger than an output of adjusting means for adjusting optical power of longer-wavelength-band light. It would have been obvious to modify Sun in view of Berger in order to compensate for the effects of Raman scattering and wavelength dependent loss in the transmission line.

With respect to claim 3, Berger teaches controlling means for controlling the outputs of said respective optical adjusting means so that optical powers of the respective wavelength bands at a predetermined point will become approximately identical when output light of the wavelength-multiplexing means travels to the predetermined point.

5. Claims 16, 17, 26, 27, 28, 29, 30, 32, 35, 36, 39, 41 are rejected under 35 U.S.C. 102(a) as being anticipated by Iwata.

With respect to claim 16, Iwata teaches an optical sending apparatus comprising:

a plurality of optical sending means provided for generating WDM optical signals;

a plurality of optical adjusting means connected to said respective optical sending means, for adjusting optical powers of light beams;

wavelength-multiplexing means for wavelength-multiplexing outputs of said respective optical adjusting means; and

control means for performing control so that an output of optical adjusting means for adjusting optical power of shorter-wavelength light becomes larger than an output of optical adjusting means for adjusting optical power of longer-wavelength light.

With respect to claims 17 and 30, Iwata teaches controlling means that control s the outputs of said respective optical adjusting means so that optical powers of the respective wavelength light at a predetermined point will become approximately identical when output light of said wavelength-multiplexing means travels to the predetermined point.

With respect to claim 26 and 33, Iwata teaches a plurality of optical sending means that generate a WDM signal by generating a plurality of optical signals and wavelength-multiplexing said plurality of signals.

With respect to claim 29, refer back to the rejection of claim 16, Iwata also teaches an optical transmission line and wavelength-demultiplexing means for demultiplexing the WDM signal.

With respect to claim 41, Iwata teaches Making optical power of a WDM optical signal in a shorter-wavelength band larger than optical power of a WDM optical signal in a longer-wavelength band among a plurality of WDM optical signals in respective wavelength bands; and

inputting said plurality of WDM optical signals in the respective wavelength bands to an optical transmission line.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2, 6, 7, 37, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sun in view of Berger.

Sun fails to teach to teach controlling means. Berger teaches controlling means that determine a difference between the outputs of optical adjusting means for adjusting the optical power of shorter-wavelength-band light becomes larger than an output of adjusting means for adjusting optical power of longer-wavelength-band light.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berger in view of Ishikawa, or in the alternative Sun in view of Berger and further in view of Ishikawa.

Berger fails to teach eliminating noise powers. Ishikawa teaches eliminating noise powers. It would have been obvious to modify Berger's device to eliminate noise powers and to calibrate the control means to account for the eliminated noise powers.

Sun in view of Berger fails to teach eliminating noise powers. Ishikawa teaches eliminating noise powers. It would have been obvious to modify the device, Sun in view of Berger, to eliminate noise powers and to calibrate the control means to account for the eliminated noise powers in order to maintain nearly equivalent channel powers.

With respect to claims 37 and 38, this is the inherent method by which amplification is performed.

8. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sun in view of Berger, as applied to claim 1 above, and further in view of Toyohara.

Sun in view of Berger fails to teach an increase or decrease in the number of channels in a WDM signal. Toyohara teaches a device where the number of channels in a WDM signal are increased or decreased. It would have been obvious to modify Berger's device to account for an increase or a decrease in the number of channels in a WDM signal in order to maintain gain flatness in communications system.

Sun in view of Berger fails to teach an increase or decrease in the number of channels in a WDM signal. Toyohara teaches a device where the number of channels in a WDM signal is increased or decreased. It would have been obvious to modify the device to account for an increase or a decrease in the number of channels in a WDM



Art Unit: 3662

9. Claim 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berger in view of Itou, or in the alternative Sun in view of Berger and further in view of Itou.

With respect to claim 10, detecting means at a predetermined point where powers of the respective wavelength bands become approximately identical has not been taught. Itou teaches detecting means at a point where the respective wavelength channel powers become approximately identical. Channels are a species that anticipates the bands genus. It would have been obvious to modify Berger to include detecting means at said predetermined point in order to adjust the power adjusting means to flatten the power levels across the bands at said predetermined point.

With respect to claim 12, Itou teaches detecting means that detect the optical power of the WDM optical signals that include a shortest-wavelength channel.

10. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berger in view of Ishikawa as applied to claim 4 above, and further in view of Itou, or in the alternative Sun in view of Berger in further in view of Ishikawa, as applied to claim 4 above, and further in view of Itou.

With respect to claim 11, detecting means at a predetermined point where powers of the respective wavelength bands become approximately identical has not been taught. Itou teaches detecting means at a predetermined point where the respective wavelength channels become approximately identical. Channels

are a species that anticipates the bands genus. It would have been obvious to modify Sun in view of Berger further in view of Ishikawa to include detecting means at said predetermined point in order to adjust the power adjusting means to flatten the power levels across the bands at said predetermined point.

With respect to claim 13, Itou teaches detecting means that detect the optical power of the WDM optical signals that include a shortest-wavelength channel.

11. Claims 18 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwata in view of Ishikawa. Iwata fails to teach eliminating noise powers. Ishikawa teaches eliminating noise powers. It would have been obvious to modify Iwata in view of Ishikawa in order to improve the signal to noise ratio (SNR).
12. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Iwata in view of Berger. Iwata fails to explicitly teach compensating for Raman scattering. Berger teaches pre-emphasis to compensate for Raman scattering. It would have been obvious to modify Iwata to compensate for Raman scattering to equalize the SNR for each signal.
13. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwata in view of Toyohara.

Iwata fails to teach a system where the number of signals may be increased or decreased. Toyohara teaches a system where the number of channels in a WDM signal may be increased or decreased. It would have been

obvious to modify Iwata in view of Toyohara in order to vary the number of channels in the WDM signal.

14. Claims 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwata in view of Taga. Iwata fails to teach detecting at a predetermined point where optical powers are approximately identical. Taga teaches feedback from a predetermined point. It would have been obvious to modify Iwata in view of Taga to use detecting means at the predetermined point and use control means based on said detecting means in order to have the control based on real data rather than predicted results.
15. Claims 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwata in view of Ishikawa, as applied to claim 18 above, and further in view of Taga. Iwata in view of Ishikawa fails to teach detecting at a predetermined point where optical powers are approximately identical. Taga teaches feedback from a predetermined point. It would have been obvious to modify Iwata in view of Taga to use detecting means at the predetermined point and use control means based on said detecting means in order to have the control based on real data rather than predicted results.
16. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Iwata.

Iwata fails to teach the use of a spectrum analyzer in receiving means. A spectrum analyzer is well known in the art as a device for processing signals received from a transmission system.

Art Unit: 3662

17. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Iwata in view of Sun.

With respect to claim 39, Iwata fails to teach amplifying WDM bands separately. Sun teaches amplifying WDM bands separately. It would have been obvious to modify Iwata's method in to amplify WDM bands separately for the purpose of gain flattening.

18. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Iwata in view of Sun as applied to claim 39 above, and further in view of Berger.

Determining a difference between outputs has not been taught. Berger teaches determining an output and adjusting the outputs based on a comparison of the said outputs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen C Cunningham whose telephone number is 703-605-4275. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on 703-306-4171. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4180.

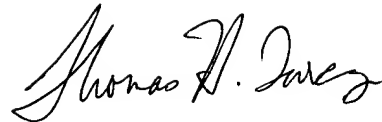
Application/Control Number: 09/635,431

Page 12

Art Unit: 3662

\*\*\*

September 4, 2001

A handwritten signature in black ink, appearing to read "Thomas H. Tarcza". The signature is fluid and cursive, with the first name "Thomas" and last name "Tarcza" clearly distinguishable.

THOMAS H. TARCZA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600